

**CONTRACT FOR PROFESSIONAL SERVICES**

**between**

**GOVERNMENT OF THE VIRGIN ISLANDS  
DEPARTMENT OF PROPERTY AND PROCUREMENT  
on behalf of the**

**DEPARTMENT OF HUMAN SERVICES**

1303 Hospital Ground  
Knud Hansen Complex, Building A  
Charlotte Amalie, St. Thomas, VI 00802

**and**

**UNITED HEALTHCARE INSURANCE COMPANY  
AND ITS AFFILIATES**

185 Asylum Avenue  
Hartford, Connecticut 06103

**P019DHS T17**



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## CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is made this 30<sup>th</sup> day of November 2016, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT OF HUMAN SERVICES**, Knud Hansen Complex-Building A, 1303 Hospital Ground, St. Thomas, Virgin Islands 00802, (hereinafter referred to as "Government") and **UNITED HEALTHCARE INSURANCE COMPANY and its AFFILIATES**, 185 Asylum Avenue, Hartford, Connecticut 06103 (hereinafter referred to as "Contractor") and is executed pursuant to the terms and conditions set forth herein.

### WITNESSETH:

**WHEREAS**, the Government is in need of the services of a Contractor as set forth in this Contract;

**WHEREAS**, the Contractor represents that it has been approved by the Centers for Medicare and Medicaid Services ("CMS") as a sponsor of a Medicare Part D Prescription Drug Plan ("Part D PDP") in thirty-four (34) Medicare Part D regions established by CMS, including the Virgin Islands. United Health Care Insurance Company has obtained a CMS waiver under Section 1860D-1 (c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, PL 108-173 ("the Act"), to operate as a Part D PDP sponsor in all fifty (50) states, Puerto Rico and the U.S. Virgin Islands;

**WHEREAS**, the Contractor is the Sole Source Provider of a Part D Prescription Drug Plan (PDP) approved by CMS as a Part D PDP Sponsor for the U.S. Virgin Islands;

**WHEREAS**, Contractor's Part D PDP is branded AARP MedicareRx. AARP Medicare Rx Plans carry the AARP name; Contractor pays a royalty fee to AARP for the use of AARP intellectual property.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

### 1. SERVICES

The Contractor will provide the services described in *Addendum I (Scope of Services)* attached hereto and made a part of this contract.

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## 2. TERM

Upon the execution of this contract by the Governor of the U.S. Virgin Islands, this contract shall be effective from January 1, 2016, and shall terminate on December 31, 2018. The Government reserves the right to extend and/or renew this Contract for two (2) additional one (1) year periods.

## 3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in *Addendum I (Scope of Services)*, agrees to pay a total amount not to exceed **THREE MILLION and 00/100 (\$3,000,000.00) DOLLARS** in accordance with the provisions set forth in *Addendum II (Terms of Compensation)* attached hereto and made a part of this contract. No additional expenses other than those authorized by *Addendum II (Terms of Compensation)* will be paid by the Government.

The Contractor will be reimbursed by the Government for the specific types of pass-through expenses set out in *Addendum I (Scope of Services)* attached hereto. Claims for such reimbursement shall be made monthly. The maximum amount for such reimbursement shall not exceed the amount identified in the reimbursement schedule set out in *Addendum I (Scope of Services)* for the full term of this contract.

The Contractor shall otherwise be compensated and reimbursed through the receipt of monthly premiums, co-payments and deductibles pursuant to *Addendum I (Scope of Services)*.

## 4. TRAVEL EXPENSES

The cost of any travel and/or transportation costs of the Contractor and/or its agents, inside the Virgin Islands, and/or the shipping or transportation of any equipment, material, or supplies, required for preparing for and/or providing the services of the Contract, shall not be included within the compensation amount indicated in Paragraph 3 above.

## 5. RECORDS

The Contractor, when applicable, will present documented, precise records of time and/or money expended under this Contract.

## 6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to his profession and to consultants doing business in the United States Virgin Islands and in the state/territory in which Contractor is duly licensed to provide the services described and agreed to herein.



## 7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived from and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

In performance of this Contract, and any Addenda hereunder, the Contractor acknowledges that certain Government Data to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by territorial or federal law. In addition to the provisions of this Section, the Contractor shall execute the **HIPAA Business Associate Agreement** incorporated into this Contract and attached as *Addendum III*.

## 8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to gross receipts, unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

## 9. INDEMNIFICATION

Each party shall defend the other and its officers and employees against all claims or suits arising in whole or in part from any act or omission of such party or of any agent of such party. Each party shall promptly notify the other in the event of any such claim or suit, and shall immediately provide a complete defense against the entire claim or suit. Each party shall notify its insurance company and other party within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Contract.

Each party agrees to investigate, defend and hold harmless the other party from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including reasonable attorney's fees) and causes of action of whatsoever character which such other party may incur, sustain or be subjected to, directly arising out of the negligent act or omission of indemnifying party in its performance under this Contract, except to the extent of the negligence or wrongful act of the indemnified party.

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## 10. LICENSURE, PERMITS, AND INSURANCE

The Contractor covenants that it has familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations, and has obtained all of the applicable licenses or permits, temporary or otherwise, as may be required under said statute(s) for the conduct of the Contractor's business in the United States Virgin Islands. The Contractor shall also provide the Government with proof of civil liability malpractice insurance coverage of no less than **ONE MILLION and 00/100 (\$1,000,000.00) DOLLARS** per occurrence and **THREE MILLION and 00/100 (\$3,000,000.00) DOLLARS** in the General Aggregate for itself and/or its employees, agents, subcontractors and/or independent contractors; and Professional Liability Insurance in limits of not less than **THREE MILLION and 00/100 (\$3,000,000.00) DOLLARS** per claim, and **FIVE MILLION and 00/100 (\$5,000,000.00) DOLLARS** in the Aggregate, for the entire period of this contract. In the event that the Contractor's existing coverage will expire before the end of the term of this contract, the Contractor shall provide proof of the renewal of coverage within **TEN (10)** days after the beginning of the new period.

## 11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status. The Contractor will act in an independent capacity and not as an officer or employee of the Government of the U. S. Virgin Islands.

## 12. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands. Government does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. Government does not waive any right to a jury trial.

## 13. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this contract without the prior written consent of the Government, which shall not be unreasonably withheld.

## 14. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition, or provision of this contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification, or amendment. Any

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such waiver, modification, or amendment in any instance or instances shall in no event be construed to be a general waiver, modification, or amendment of any of the terms, conditions, or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings. In the event of that; the parties agree that changes must be made to ensure the performance of work under this Contract, said changes in the scope of work must be made in writing to the other for an equitable adjustment in compensation or schedule caused by such material change.

## 15. ENTIRE CONTRACT

This Contract, including all Addenda, constitutes the entire contact between the parties hereto. There are no understandings, Contracts, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written Contract signed by both parties.

## 16. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem reasonably necessary to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. In the event Government chooses to secure itself or satisfy such claims, Contractor will have no obligation to indemnify Government for such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable, in the event that such contest is not successful.

## 17. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

## 18. TERMINATION

Either party will have the right to terminate this Contract with or without cause on **NINETY (90)** days' written notice to the other party specifying the date of termination.

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## 19. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the **NINETY (90)** day notice, provided that the Contractor has performed work specified under the Contract during that ninety-day period.

## 20. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

## 21. CONFLICT OF INTEREST

(a) Contractor covenants that it has no interest and will not knowingly acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

(b) Contractor further covenants that it is:

(i) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(ii) a territorial officer or employee and, as such, has:

- a. familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
- b. not made, negotiated or influenced this Contract, in its official capacity;
- c. no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

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## 22. EFFECTIVE DATE

The effective date of this Contract is upon the signature of the Governor of the United States Virgin Islands. The Contractor acknowledges and understands that the Contract is not effective until all requisite Government approvals are received, and the Contractor shall not begin performing work under this Contract until notified to do so by Government's Department of Human Services that this Contract has been fully executed. **The Contractor is entitled to no compensation for work performed prior to the effective date of this Contract.**

## 23. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

### GOVERNMENT

Commissioner  
**Department of Property and Procurement**  
Sub Base, Building No. 1, Third Floor  
St. Thomas, VI 00802

Commissioner  
**Department of Human Services**  
**Golden Rock Office**  
3011 Estate Golden Rock  
Christiansted, St. Croix, Virgin Islands 00820

### CONTRACTOR

United Health Care Insurance Company  
C/O Natalie Henderson  
Account Manager-Medicare Part D  
United Health Care Medicare & Retirement  
900 Healthcare Lane  
Minnetonka, Minnesota 55343  
Telephone: (952) 542-4201  
Fax: (952) 931-4251

## 24. PUBLICITY

No publicity, including press releases, interviews, bulletins, or articles in any public medium concerning this Contract, its terms, execution, implementation, or results, can be released without approval of the Government. Provided, however, upon the signing of this Contract by all parties hereto, the terms of the Contract become available to the public pursuant to Virgin Islands law. The parties hereto agree to allow public access to all documents, papers, letters, or other materials subject to

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the current Virgin Islands law on disclosure. It is expressly understood that substantial evidence of Contractor's refusal to comply with this provision shall constitute a material breach of this Contract.

All information received that is the subject of this Contract, including copyrighted material, is deemed public information and will be made available for public viewing and copying shortly after the signing of contracts. The sole exceptions to this are as follows: (1) trade secrets meeting the requirements of Federal Trade Secrets laws that have been properly marked, separated, and documented; and (2) any Contractor financial information requested by Government to determine Contractor's responsibility, unless prior written consent has been given by the Contractor.

## **25. WAIVER AGAINST LIENS**

The Contractor shall provide waivers from all Sub-Contractors certifying that the Sub-Contractors have been paid in full for all services rendered hereunder.

## **26. DEBARMENT CERTIFICATION**

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. If, during the term of this Contract, the contractor shall become ineligible to receive contract awards using federal funds, this contract shall be terminated forthwith for cause and the contractor shall not be entitled to payments for any work performed under this contract or subcontract after the effective date of such ineligibility.

## **27. FALSE CLAIMS**

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

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## 28. NOTICE OF FEDERAL FUNDING

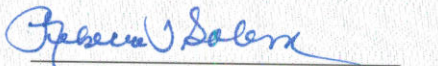
Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

## 29. OTHER PROVISIONS


Addendum I, Addendum II, and Addendum III attached to this Contract are incorporated into and made part of this Contract. In the event of a conflict between terms and conditions of the general provisions of the Contract, as set out in Sections 1 through 28 of this Contract, and the terms of any Addendum or Attachment to this Contract, the terms and conditions of said general provisions of the Contract shall prevail.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

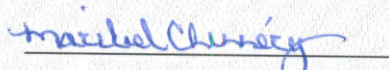
### WITNESSES:

  
Lynne Gilligan

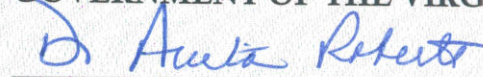
### CONTRACTOR

  
**Timothy Noel, Vice President**  
United Health Care Insurance Company  
(Corporate seal, if Contractor is a corporation)

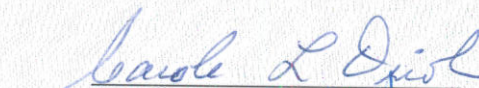
9/21/16  
Date

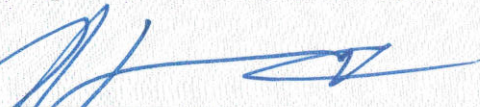
  
Pamela C. Richards

### GOVERNMENT OF THE VIRGIN ISLANDS

  
**Dr. Anita Roberts**  
Commissioner Designee  
Department of Human Services

10.13.2016  
Date

  
Randolph N. Bennett

  
**Randolph N. Bennett**  
Commissioner  
Department of Property and Procurement

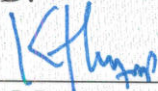
11/10/16  
Date

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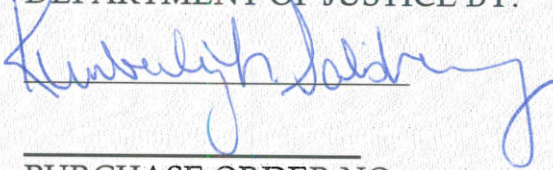
APPROVED:



**Kenneth E. Mapp**  
GOVERNOR OF THE VIRGIN ISLANDS

Date: 11-30-16

APPROVED AS TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE BY:



Date: 11-22-16

PURCHASE ORDER NO.

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Contract No. \_\_\_\_\_

Contractor's Initials: TN